P9

1929

C.F. 21 & 22.

Department of L R & S

OFFICE Board of Rev

STATION Chepauk

M. **No.** 1545 M

Dated 4-6-29

11.000 V 5.6

To whom sent	Date	Initial

Given for copying

Copied 9/5/30

Examined

Signed

Given for despatch

Despatched

Indexed

To be destroyed on*

Pages in the file

(SUBJECT.)

Suits (Recovery) - Hospet Dues - 07-(21/29 - Mortgage of Landsons for arrears of Rent-Reserve of Rent - Defence - Sanctioned.

*Not to be filled in in the case of permanent records.

In reply, please quote number, date and short title.*

REVENUE DEPARTMENT

Received 6-MAY 1929 Registered A1542

From (Name) E.Bennett, I.C.S.,

(Designation) Collector of

Post Box ....., (Station) Bellary.

Telegraphic Address .....

To The Secretary to the Commissioners,

Board of Revenue,

Land Revenue and Settlement,

Madras.

Ref No. 1365/29 *dated* 2-5-29 192

Sir,

Suit - District Munsiff's Court - Hospet O.S.124/29
Written Statement - submitted -

Enclosures 4.

Spare Copies .....

Sanction is requested for the defence of suit No. 124/29 on the file of the District Munsiff's Court Hospet.

Plaintiffs have filed a suit impleading Government as second defendent for the recovery of S.Nos. 431 K and 537 B of Perjahalli village, Kudligi Taluk originally mortgaged by defendent No. 1 to the Plaintiff's father. These lands stood registered in the name of Matada Siddalingayya . They were waste for a long time. S.No. 431 K was brought to sale for Land Revenue arrears of Fasli 1334 and was purchased by Matada Haleppa. The sale was confirmed by the Revenue Divisional Officer Hospet on 3-9-23 . Again, S.No. 537 B was sold for arrears of Revenue of Fasli 1335. As there were no biddrs at the sale the land was purchased on behalf of Government and declared Namakartham on 30.7.26 . Subsequently the Namakartham land was sold and was bought by Matada Haleppa. Thus the two fileds belonging to Matada Sidda Eingappa, the first defendent, came into the possession of Haleppa, the third defendent.

A written statement drafted by the Government Pleader which is to be filed on behalf of Government is enclosed for approval.

The plaint is dated 19-2-29, summonses were served on 26-2-29 and the suit is adjourned to 11-6-29 for filing the written statement.

The records noted below are enclosed with duplicate lists. Kudligi Taluk office

(a) DDis 858/18-12-25

(b) R.Dis 99/11-8-26

(c) R.Dis 139/20-8-29

3-5-29

For Collector.

M.A.K.3-5

C.R. 2/15

In the Court of the [illegible] Spel.

O.S 124/29.

Copy of Written Statement. Between Dodda Nagamma and another - Plaintiffs
(on behalf of the 2nd defendant) and Sidlingappa and others - defendants

This defendent states as follows:-

1. The suit is false,, vexatious and unsustainable in law;

2. This defendent is neither aware of the suit mortgage nor of the plaintiff's right to sue;

3. There is no cause of action for this suit against this Defendent. Lands items 1 and 2 of the plaint schedule belonge to one Matada Sidlingappa and their patta stood in his name. In 1917 he absconded and his whereabouts are unknown. The above two lands lay uncultivated during his absence and their land revenue fell into arrears in 1925 and 1926 respectively. The 1st item was put up for sale by this Defendent and in the revenue sale the 3rd defendent purchased it on 6-7-25 for Rs. 20/- The 2nd item was also put up for sale by this defendent on 17-6-26 and as there were no bidders, was declared namakartham. This was again sold on 12.7.27 and was purchased by the 3rd defendent. The two sales were confirmed by the Revenue Divisional Officer in due course. As these lands were sold by this defendent to realise the arrears of land revenue under S.42 of Act II. of 1864 free of encumbrances, the 3rd defendent has acquired full rights to them. This defendent has no interest in these two lands. Hence both this defendent and the 3rd defendent are not necessary parties to this suit.

4 The allegation in para 5 of the plaint that this Defendent took possession of the said lands and disposed them of in 1917 is false. They were disposed of only in the manner narrated in para 3 Supra.

The Plaintiffs and their father knew that the 1st defendent had absconded and that his lands would be sold for arrears of land revenue. They ~~slept over the matter and~~ did not object to the said sales. They could have paid the arrears of revenue and preserved the mortgaged security. Not having availed themselves of the remedies open to them under the Revenue Recovery Act they cannot now ask for the sale of the said lands. The assessment is the first charge on ryotwari lands and the Plaintiff's mortgage rights, even if they existed, could have been no bar to the sales. Suit as against Government is time barred under section 59 of Madras

The plaintiffs must prove all facts in the plaint

not traversed in this written statement.

For these reasons it is prayed that the Honourable Court be pleased ~~xhx~~ to dismiss the suit against this defendent with costs.

(Signature)

Collector of Bellary.

I hereby declare that the facts stated in paras 1 to 7 of this written statement are true to my knowledge and belief Signed and verified at on

Signature

Collector of Bellary.

This suit as against Government is time ~~since~~ barred under section 59 of Madras Act 11 of 1864.

(true copy)

3-5-99

For Collector.

C.R.
3/5

Courts (Bellary) - Hospet Munsiff - OS 124/29
Ownership of Land

READ AGAIN B. P. No. _____ dated _____ 192 .

" " " _____ " _____ 192 .

READ ALSO :—

Register No. A 1544/29, from the Q _____, No. _____, dated _____ 192 .

1.37 " _____ " " _____, " _____ " _____ 192 .
9.5

" " _____, " _____, " _____ 192 .

~~RESOLUTION.~~ No. A 1544 29-1, dated 8 5 1929.

The Collr is requested at an early date to submit a copy of the plaint (or an English translation of the plaint if it is in Telugu) in OS 124 of 1929 on the file of the Hd. Munsiff's Ct, Hospet.

8.5.29.

RECEIVED 10 MAY 1929

7.5.29 Draftsman

Issue to the

To the Collr of Bellary

A.1672 — DEPARTMENT.

In reply, please quote number, date and short title. *

Received ..... *Registered* .....

From (Name) E. Bennett Esqr. I.C.S.

(Designation) Collector of [illegible]

Post Box....., (Station) Bellary

Telegraphic Address.....

To The Secretary to the Commissioners,

Land Revenue & Settlement,

Madras.

Ref.C. *No.* 1365/29, *dated* 15th May 1929.

Sir,

* Suits - Hospet District Munsiff's Court - O.S.124 of 29 - ownership of land - plaint copy submitted.

Ref:- Board's reference A.1542-29 dated 8-5-29.

An English translation of the plaint in O.S. No.124 of 1929 on the file of the District Munsiff's Court, Hospet is enclosed.

Enclosures 1

Spare Copies .....

17-5-29

For Collector.

K.K.D 16-5-29.

R. 17/5

In the Court of the District Munsiff, Hospet.

O.S. No. 124/1929.

Alur Konana Dodda Naganna etc. Plaintiffs.

a n d

Matada Siddalingappa etc. Defendants.

Plaint filed in accordance with C.P.C. Order VII and Rule I.

Plaintiffs:--

Konana Dodda Nagappa. } Minors by father Siva Redrappa by
Konana Sanna Nagappa. } guardian uncle.

Konana Sanna Thippanna, son of Chennappa, Lingayat, major, Merchant, Alur.

Address C/o K.S. Sastrulu B.A., Pleader, Hospet.

2. Defendants.

1. Matada Siddalingappa son of Siddappa, Major, Jangama.
2. Secretary of State for India by Collector of Bellary.
3. School Master Halappa, Major, Lingayat, School master.

Defendants 1 and 3 residing in Pujarahalli, Kudligi Taluk.

3. Late Sivarudrappa, father of the plaintiffs, is the mortgagee for the immoveable property of 1st defendant shown below:--

4. Details of mortgage:--

(a) Date of mortgage--- 3-2-1917. (3-2-1917).

(b) (1) Name of Mortgager--- Matada Siddalingappa. 1st Defendan

(2) Name of Mortgagee--- Konana Sivarudrappa.

(c) Mortgage amount. Rs.400-0-0.

(d) Rate of Interest.- 0-14-0. per mensem

(e) Details of mortgaged property:--

Serial No.	S.No.	Extent.	Assessment.	Boundaries.
1.	431 C (part)	3-7	1-2-4	East.S;Nos.536 and 538; West. S.No.432; North portion of S.No.431C belonging to Basappa uncle of 1st Defendant. South. S.No.432 land situated between these boundaries and also 1/3 share in the well situated in the land belonging to Basappa uncle of 1st defendant.
2.	537 (part)	3-72	1-14-0	East, West and

8

South:- S.No.536; North-portion of S.No.537 belonging to Basappa ½ share in the well situated in it.

3. 1/54th share in the private tank in S.Nos.280, 281, 282, 283 and 346 of the same village.

4. House: East- House belonging to Chikkappa, Mahantappa uncle of 1st defendant.

West:- House of Chintrapalli Chenna Basappa and Thippayya.

North:-- House of Dami Thippayya with rasta.

South:- House of Kurubara Hobaliga.

Situated between these boundaries with a veranda in front and facing the doorway to the north.

(f) Amount of present debt.--

Principle.-	Rs.400	0	0
Interest from 31-2-17 ~~31-8-17~~ to 3-2-29 at 0-14-0 per cent per mensem on Rs. 400/-	504	0	0
	904	0	0
Remitted.	104	0	0
	800	0	0

(g) Reasons for plaintiff claiming the amount:--

Minor plaintiffs are the undivided sons of late Konana Sivarudrappa- Since the amount of the plaint was paid from the property of the undivided family, the plaintiff has a right to collect the amount by right of survivorship.

5. As the 1st defendant absconded owing to C.C.27/17 of the Sub Divisional Magistrate and as the 2nd defendant got possession of items 1 and 2 of the property of 1st defendant, both these persons have been included as defendants. Sivarudrappa gave a lawyer notice as per sec. 80 of C.P.C. in 1919-20 to the Collector of Bellary. The 3rd defendant has been included in this suit as he happens to be at present in possession and enjoyment of items 1, 2, ~~xxxxx~~ lands and 4 a house of the mortgaged property.

6. Amount claimed by plaintiff:--

Court fees etc., Rs.800/-

7. Defendants did not pay the amount even though they were demanded many times by the plaintiff. Hence cause of action arose in Machihalli on 3-2-17 when the 2nd defendant took possession of items 1 and 2 and in Hosalli about the year 1926 when the 3rd defendant got possession of items 1, 2 and 4 of the mortgaged property. Plaint has been filed on 4-2-29 as 3-2-29 happened to be a Sunday. Hence this plaint is not time barred.

8. The plaintiff prays that the plaint amount together with costs and interest may be decreed by the Court to be paid by the defendants on the date fixed by the Court and in default the mortgaged property may be ordered to be sold in auction and the proceeds given to the plaintiff.

(True Copy)

17-5-29

For Collector.

CR. 17/5

Ag Sale 11.6.29.

R. F. XXII-A-19.—26,004 31-1-29 (6).

Subject.—

Suits (Bellary) - Hospet Divn - 05.124/2 - Mortgage of lands sold for arrears of Rent - Recovery of sum - Defence - Sanctioned.

FOR MEMBER.

Ai.

READ AGAIN B. P. No. _____, dated _____ 192

" " " _____ ; " _____ 192

READ ALSO :—

p1 cf. Register No. A 1542/29, From the _____, No. _____, dated _____ 192 .

p5 cf. Ryot in 8.5.29

p6 cf. " " A 1672/29 " . } Q. " _____, " _____, " _____ 192 .

" " _____, " " _____, " _____, " _____ 192 .

RESOLUTION. (Mis) No. 1565, dated 4 - 6 - 192 9.

pp 3-4 cf.

The Board sanctions the defence of the suit and approves the draft written statement submitted by the Collector subject to the following modifications:-

(1) " For the ~~last but one~~ penultimate sentence namely " the plaintiff must prove all facts in the plaint not traversed in this written statt." substitute the following

" This defendant denies the truth of such of the allegations in the plaint as are not expressly admit

"admitted herein and puts
"the plaintiffs to strict proof
"of the same".

(2) In the first sentence of para 3, for the words "And their patta stood
22.5.29 B.S.J. substituted "And were registered"

Cross Amendments) In second sentence of para 5 for the words "kept over the matter"

B.S. 24/5

B.S. 24/5

TO The Collr of Bellary
with records as per list
herein

pr. G.

In Second Sentence of para 5 for the words
"Kept over the matter"